

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No.
vs.	)	12-CR-3045-MDH-1
	)	
	)	
CHARLES FREDERICK WHITE,	)	
	)	
Defendant.	)	

SENTENCING  
BEFORE THE HONORABLE M. DOUGLAS HARPOOL  
WEDNESDAY, SEPTEMBER 20, 2017; 9:35 A.M.  
SPRINGFIELD, MISSOURI

APPEARANCES:

FOR THE PLAINTIFF:	MR. PATRICK J. CARNEY UNITED STATES ATTORNEY'S OFFICE 901 St. Louis, Ste. 500 Springfield, MO 65806
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FOR THE DEFENDANT:	MR. JASON COATNEY LAW OFFICES OF JASON COATNEY 939 N. Boonville, Ste. C Springfield, MO 65802
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COURT REPORTER:	MS. JEANNINE RANKIN, RPR, CSR UNITED STATES DISTRICT COURT 222 N. Hammons Parkway Springfield, MO 65806
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Proceedings recorded by mechanical stenography;  
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USA v CHARLES F. WHITE

CASE NO. 12-CR-3045-MDH-1

SENTENCING

September 20, 2017

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THE COURT: We are here for sentencing of Charles Frederick White. Who appears on behalf of the United States?

MR. CARNEY: May it please the Court, Your Honor. United States appears by Patrick Carney on behalf of Timothy Garrison.

THE COURT: And the defendant appears by?

MR. COATNEY: Jason Coatney, Your Honor. Good morning, sir.

THE COURT: Mr. White, would you stand.

My name is Doug Harpool. I'm a federal district judge and it's my responsibility this morning to sentence you for the crime of conspiracy to manufacture a thousand or more marijuana plants. That's a violation of 21 U.S.C. 846, 841(a) and (b)(1)(A). It is a Class A felony.

The law instructs me to sentence you to a sentence which is sufficient but not greater than necessary to meet objectives of the U.S. sentencing laws. In deciding what your sentence should be, then, the first thing we'll do is consult those laws and determine what the law allows for a sentence for you, what it authorizes. We'll then look at the U.S.

1 Sentencing Guidelines and see what they have to say about a  
2 guideline sentence for you. We'll then listen to the lawyers'  
3 arguments about factors that I should consider in sentencing  
4 that are described in Title 18, Section 3553(a). The lawyers  
5 will make recommendations to me about your sentence and then  
6 I'll give you an opportunity to say something to me if you  
7 want to. You don't have to say anything. I won't hold it  
8 against you if you remain silent. When that's finished, I'll  
9 make a final decision on what your sentence should be. All  
10 right?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Go ahead and be seated.  
13 Although I do want to ask you, did you read the presentence  
14 investigation report?

15 THE DEFENDANT: Did I read it?

16 THE COURT: Yeah, or have it read to you?

17 THE DEFENDANT: We didn't never get -- we only got  
18 about halfway through it.

19 Yes, sir.

20 THE COURT: All right. And the -- I have to -- I've  
21 read everything that's been submitted to me. I've read some  
22 briefing, I've done some independent research on my own but I  
23 haven't made a final decision on what I'm going to do in your  
24 case, so let's get started.

25 Counsel, the statute that I referenced earlier which

1 creates this crime appears to require a sentence of at least  
2 ten years and as long as life in prison, supervised release of  
3 not less than five years, a fine as high as \$10 million and  
4 then payment of a \$100 special assessment.

5 Any disagreement that that's the statute with which  
6 we're dealing with?

7 MR. CARNEY: No disagreement from the government,  
8 Your Honor.

9 MR. COATNEY: No disagreement, Your Honor.

10 THE COURT: All right. The presentence  
11 investigation concludes that under the sentencing guidelines  
12 the offense level should be set at 35 and the criminal history  
13 at six.

14 This may have been explained to you but I always  
15 like to do it on the record, Mr. White. Under the U.S.  
16 Sentencing Commission -- that's an institution created by  
17 Congress -- and the Supreme Court has ruled that in every case  
18 every federal district judge has to adopt -- or calculate what  
19 the sentence would be if it was imposed according to the  
20 sentencing guidelines of the U.S. Sentencing Commission.  
21 That's federal courts from Puerto Rico to Hawaii to Missouri,  
22 everywhere. We use the same book, the same criteria.

23 It requires two things in order to calculate a  
24 sentencing guideline. You first assign a number to your  
25 offense -- it goes as high as 43, is my recollection -- and

1 then you calculate your criminal history. That's based on  
2 your past. That goes as high as six. So across the top of  
3 the chart it goes one to six, then down the column it goes up  
4 to 43, then on the chart in the back you see where the two  
5 meet on the chart and that's what the guideline sentence is.

6 With an offense level of 35 and a criminal history  
7 of six, your guideline sentence as suggested by the U.S.  
8 Sentencing Guidelines would be a sentence of between 210 and  
9 262 months.

10 Is there an objection to the offense level or the  
11 criminal history category which this Court needs to address?

12 MR. COATNEY: Your Honor, we filed objections to  
13 this. In terms of his criminal history category, no. There  
14 was one, Paragraph 29 on page 8, Your Honor.

15 THE COURT: All right. That's the -- in the  
16 criminal history category, then, it's the assessment of one  
17 point based on the '02 conviction for possession of a  
18 controlled substance with intent to distribute?

19 MR. COATNEY: Yes, Your Honor.

20 THE COURT: What is your objection?

21 MR. COATNEY: Your Honor, there's no objection to  
22 that. Never mind.

23 THE COURT: All right. There is an objection, I  
24 noticed, at least in writing, to the two-point enhancement for  
25 maintaining a premises for the purpose of manufacturing,

1 distributing controlled substance on page 5, Paragraph 15. I  
2 didn't know if you wanted to withdraw that or you wanted to  
3 argue it or just wanted me to rule it based on what you had  
4 written?

5 MR. COATNEY: Please rule upon it based upon what's  
6 written, Your Honor.

7 THE COURT: Does the government wish to be heard on  
8 that objection?

9 MR. CARNEY: Nothing beyond what Mr. Garrison has  
10 already argued to the Court, Your Honor.

11 MR. COATNEY: I guess I would say this, Judge. He's  
12 got a home and he's using a building for these growing  
13 purposes. It seems to me that this maintaining the entire  
14 premises for this or enhancing this for this purposes is --  
15 it's not the intent. He didn't go purchase this property to  
16 do this. It wasn't designed to cover this up. It was his  
17 home.

18 THE COURT: Let me ask -- and I'm going to let you  
19 both answer this. I realize that he was growing a lot of  
20 marijuana plants. Was he growing them in a warehouse, in a  
21 barn, out in the field?

22 MR. COATNEY: A barn.

23 THE COURT: All right. Was there any agricultural  
24 use being made of the premises other than marijuana growth?

25 MR. COATNEY: That's it, Your Honor.

1           THE COURT: The Court is going to overrule that  
2 objection. The objection to page 5, Paragraph 15 is  
3 overruled.

4           There's a -- there are other objections, I notice,  
5 that don't go to the offense level, they're just to the  
6 factual material. Those are noted and no admission by the  
7 defendant is made as to any material that is objected to.

8           MR. COATNEY: Your Honor, Mr. White would like me to  
9 suggest to the Court in terms of the overall amount, the  
10 sentencing guidelines calculate the amount of marijuana grown  
11 by converting the plant to a specific weight of marijuana and  
12 he believes that based upon his growing system that the plants  
13 would not grow to a full size that would produce that type of  
14 weight associated with the sentencing guidelines, that it  
15 would be something much smaller, and therefore it would not  
16 rise to the level of the statutory minimum under 21 U.S.C.  
17 Section 841.

18           THE COURT: All right. I'm going to look at 2D1,  
19 the drug calculation guideline.

20           The presentence investigation report, as I  
21 understand it, has used a quantity of between 100 kilograms  
22 and 400 kilograms and therefore found an offense level of 24.  
23 What quantity does your client claim?

24           THE DEFENDANT: May I say something? When you grow  
25 inside, Your Honor, you don't grow a great big, giant plant,

1 8-, 10-, 12-feet tall kind of situation and --

2 THE COURT: I understand that argument, but what I'm  
3 trying to figure out is is there a quantity you agree would  
4 have been produced by the number of plants that you had in  
5 production?

6 THE DEFENDANT: Yes. In my barn that was on my  
7 property, I'd say 10 to 12 pounds.

8 THE COURT: Ten to 12 pounds?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: What's the government say?

11 MR. CARNEY: Your Honor -- and I apologize, I'm not  
12 Mr. Garrison so I'm not as familiar with the facts of this  
13 case as he would be -- I would note that this was over 1700  
14 plants. I believe that the conversion rate is properly stated  
15 within the PSR. To believe that 1700 plants would only create  
16 10 to 12 pounds, Your Honor, I think is -- I think it's  
17 misleading. I think it's self-serving.

18 THE DEFENDANT: There was three barns, Your Honor,  
19 and each barn, what I understand, would have about the same as  
20 what mine did, 10 to 12 pounds each. We've got a picture of  
21 it in the discovery that shows the plants, what size they are,  
22 and none of them were over 2-feet tall. In fact, the ones  
23 that are hanging --

24 THE COURT: At the time they were seized the  
25 question is how big would they have gotten.



1 THE DEFENDANT: They're about this big, sir  
2 (indicating).

3 THE COURT: That doesn't help us for the record  
4 because that record just -- Mr. Coatney, you want to try to  
5 describe what your client just said in words so it will be  
6 preserved?

7 MR. COATNEY: He was using two hands to indicate  
8 about a 2 1/2-foot tall plant, Your Honor.

9 What he's suggesting is is that based upon the  
10 system for which the plants were being grown, they would not  
11 produce a plant that would be something similar to what would  
12 be outdoors and produce the amount of marijuana that would be  
13 associated with how the sentencing guidelines would be  
14 typically calculated.

15 THE COURT: Let me ask you this. Does quantity in  
16 any way impact the minimum sentence or would he still be  
17 subject to the minimum sentence regardless of the quantity?

18 MR. COATNEY: It's where the guidelines and the  
19 statute clash again, Your Honor. The statute references  
20 plants and doesn't discern what the size of the plant is. Its  
21 cutoff is one thousand plants.

22 THE COURT: It's the guidelines that get interested  
23 in how much quantity was produced?

24 MR. COATNEY: Correct.

25 THE COURT: Well, I'll tell you, it's my intent to

1 sentence way below the guidelines, so I don't know that this  
2 is a discussion that in the end has any impact on the actual  
3 sentence I'm going to impose.

4 THE DEFENDANT: This little book right here, the  
5 reason I brought this, this explains the whole situation there  
6 on how to grow, and when you grow inside, sir, you just grow a  
7 short little bushy plant.

8 THE COURT: For the record, if, Mr. Coatney, you  
9 want to read into the record the identity of that book, you  
10 may.

11 MR. COATNEY: Yes, Your Honor. It's Ed Rosenthal's  
12 *Marijuana Grower's Handbook*. It was a book that was seized by  
13 the government during the search of the home and was turned  
14 over to Mr. White as an exhibit.

15 THE COURT: All right.

16 I'll let the government address, in just reading the  
17 presentence investigation report, I can't really discern how  
18 the 100 kilograms to 400 kilograms was arrived at. Is that a  
19 per-plant calculation?

20 MR. CARNEY: I believe it is, Your Honor. I believe  
21 it was based upon the experience of the agents who actually  
22 seized -- who actually raided the property and seized the  
23 plants and then they did their estimations from there on what  
24 the normal production yield would be from each one of those  
25 plants.

1           THE COURT: Is it in a report from the agents or  
2 something? I'm up here thinking I have to have some basis on  
3 which to make this decision and all I have is the calculation.  
4 I'm sure there's something somewhere that led to this  
5 calculation but it's not available to me.

6           MR. COATNEY: If I may, Mr. Carney?

7           MR. CARNEY: Uh-huh.

8           MR. COATNEY: Your Honor, there's a conversion table  
9 within the guidelines that says for X number of plants equals  
10 Y number of quantity.

11          THE COURT: There's no -- the guidelines does not --  
12 do not differentiate between plant size or type of plants or  
13 anything like that?

14          MR. COATNEY: No, it doesn't concern itself with the  
15 size of the plant.

16          THE COURT: I'm going to overrule your objection to  
17 the quantity. As I said, in the end it's not going to impact  
18 my sentence because I'm going to go way below the guidelines  
19 in terms of the sentence I'm going to impose. At least that's  
20 my intent for several reasons and I'll explain those more  
21 later.

22          Any other objection we need to take up or consider?

23          MR. COATNEY: No, Your Honor.

24          MR. CARNEY: Your Honor -- and this is just for  
25 accuracy's sake. I certainly understand the Court's

1 statements and certainly the government's intention to adhere  
2 to its plea agreement as well. And I may be using the  
3 wrong -- I'm using a more recent guidelines book. But with  
4 the offense level of 35 and criminal history score of six, I'm  
5 reading the guideline range of being 292 to 365. I didn't  
6 know if I had missed something. I wasn't privy to any of the  
7 other prior conversations; I'm only here on Mr. Garrison's  
8 behalf. If I'm missing something, I apologize.

9 THE COURT: Actually, that's what I have too. If it  
10 was a 35 and a six, it is 292. The 210 to 262 would be if it  
11 was an offense level of 32.

12 MR. CARNEY: That's correct, Your Honor.

13 PROBATION OFFICER: That is correct, Judge. So that  
14 is incorrect in the PSR.

15 THE COURT: Okay. So it is 292 to 365 would be the  
16 guideline sentence range. I'm going to adopt that as my  
17 guideline sentence.

18 Let's go on and talk about what this defendant's  
19 sentence should be in this case. Obviously it has to be  
20 something Congress allows me to do, but then I am able to  
21 consider and I have to consider the guidelines. But now let's  
22 talk about what this sentence should be.

23 What is your recommendation, Mr. Carney?

24 MR. CARNEY: Your Honor, on behalf of Mr. Garrison  
25 the government did file a sentencing memorandum. We are

1 requesting the mandatory minimum of 10 years as is authorized  
2 by Congress for the particular offense to be followed by a  
3 supervised release of five years, Your Honor. We're also  
4 asking for payment of special assessment of \$100.

5           Your Honor, Mr. Garrison went into some detail in  
6 the sentencing memorandum to the Court that was filed on  
7 July 26th of this year. We would just highlight that given  
8 the defendant's age, physical infirmity, we believe that the  
9 mandatory minimum is the appropriate sentence in this case.

10           THE COURT: Let me ask you. It is your position on  
11 behalf of the government that the mandatory minimum, there is  
12 no mechanism by which under the guidelines the mandatory  
13 minimum may be set aside; is that correct?

14           MR. CARNEY: Absent the filing of a 5K motion for  
15 downward departure, Your Honor, I'm unaware of any mechanism  
16 to allow us to go below that.

17           THE COURT: And health and age concerns alone, in  
18 the position of the government, are not sufficient to  
19 disregard the Congress's order on a minimum sentence?

20           MR. CARNEY: That's correct, Your Honor.

21           Thank you, Your Honor.

22           THE COURT: You'll recall we had this set for  
23 sentencing earlier and I specifically asked the parties to  
24 look into that issue because of the health issues faced by  
25 this defendant and I think both sides did. I guess I haven't

1 seen anybody tell me they think there's anything that allows  
2 me to disregard the mandatory minimum.

3 MR. COATNEY: I actually found the sort of reverse  
4 of it, Your Honor, several cases that -- what I looked at  
5 specifically was home confinement based upon certain factors  
6 that would come under departure issues for the guidelines.

7 There's plenty of authority that allows you to do that;

8 however, it goes up against the statute. And the only

9 mechanisms to get below the statute are 3553(e) and 3553(f).

10 (f) is the safety valve. Because of Mr. White's criminal

11 history category, he's not eligible for that. Mr. Garrison

12 and I discussed 3553(e) and if there was some mechanism for

13 getting there but he felt like that wasn't something that was

14 possible. So, you know, you're left with the statute.

15 And it's an interesting sort of time, Judge. I

16 recognize that Mr. White's been before a court like this

17 before and under certain circumstances you would say, Well,

18 looking at 3553(a), what are we focused on here in terms of

19 Mr. White? He's never engaged in any violence. He's never

20 been accused of trafficking or anything like that in terms of

21 cartel or trafficking to kids or otherwise.

22 An interesting change in the law occurred in 2013

23 where the government started looking at those types of factors

24 and saying, Are we going to try and prosecute those people?

25 They made that decision to only sort of analyze those

1 questions in specific states where the voters of those states  
2 had decriminalized marijuana within their jurisdiction and  
3 that obviously runs afoul of the Controlled Substances Act.  
4 And it leaves -- and the phrase I've used with the Court  
5 before is it's sort of a schizophrenic state as it relates to  
6 our drug policy. You've got the Department of Justice on one  
7 street in Washington, D.C., and the IRS on the other side of  
8 the street and they're fighting each other over the way  
9 they're treating marijuana manufacturing in the United States.  
10 The DOJ is allowing it to occur in some areas. The IRS is  
11 still taxing everybody at a 100 percent rate because it  
12 violates the Controlled Substances Act. So even our own  
13 government when they're facing each other in Washington, D.C.,  
14 are taking different policies.

15 I understand it's not legal in this state. There is  
16 a state within our circuit where it's legal and they're  
17 issuing licenses now to businesses to do exactly what you're  
18 going to send him to prison for.

19 THE COURT: Does your client wish to address the  
20 Court?

21 MR. COATNEY: He does, Judge. This is a pretty  
22 lengthy letter that he's written. He's asked that I read it  
23 because his eyes are infirm, Your Honor.

24 THE COURT: That's fine. You may do so.

25 MR. COATNEY: Yes, sir, please.

1           THE COURT: I'll warn you, because you're reading,  
2 don't go too fast so our court reporter can get it all down.

3           MR. COATNEY: Yes, sir, Judge. Thank you.

4 (As read by Mr. Coatney.)

5           "Judge Harpool, I thank you for giving me this  
6 semi-final opportunity to plead my case for possible rational  
7 consideration by Your Honor and P.A. Mr. Garrison. The  
8 eventual reality of having to speak in public courtroom is a  
9 frightening prospect for me and most likely would be a  
10 devastating failure. Some people relish the opportunity to  
11 express themselves, I do not.

12           "I will attempt to stand as long as possible to  
13 speak of the hurt, anguish and monetary stress that I have  
14 thrust upon my older brother, the reverend Dr. Jim White. His  
15 counseling and prayer applications has sustained me these five  
16 and a half years with 31 months in deplorable Greene County  
17 Jail, a holding pen facility. Having spent my first month in  
18 real FDC in Englewood, Colorado, the difference is  
19 overwhelmingly cruel here. During my fearful hallucination I  
20 will attempt to show and reflect my true heart of hearts,  
21 remorse to everyone damaged by my stupidity, ignorance and  
22 violation of federal laws of our great country. I will be  
23 punished accordingly, I'm sure. For simplicity sake, I've  
24 written a type of rambling monologue mixed with commentary  
25 that can all be fact checked for authenticity. My sources



1 were documentaries by NPR, USA Today, Find Law, Harvard  
2 Research Institute, Federal Research from Scottsdale Research  
3 Institute, Phase No. 2, Ms. Sue Sustey," S-U-S-T-E-Y,  
4 "American Epilepsy Association, VA approval, and Dr. Casette,"  
5 C-A-S-E-T-T-E, "M.D. neuropathic back surgeon, his recent  
6 medical findings and novel.

7 All of the below illnesses have shown that marijuana  
8 will slowly and possibly stop the progression and sometimes  
9 cure the pain or disease. Please note here that marijuana has  
10 no carcinogens when grown organically and has not been linked  
11 by consumption to any single death. To illustrate, my lungs  
12 have been x-rayed six to eight times and are in excellent  
13 condition. Below is my research findings along with  
14 Dr. Teri," T-E-R-I, "Joe Gradon," G-R-A-D-O-N, "M.D. of the  
15 family Pharmacy NPR.

16 "Neuropathic back pain, cancer, glaucoma, AIDS, HIV,  
17 Hepatitis C, LSA, Tourette's Syndrome, Crohn's disease, PTSD,  
18 ulcer colitis, severe arthritis, fibromyalgia, Alzheimer's  
19 disease, autism CBDs, epilepsy, seizures, CBDs, multiple  
20 sclerosis and macular degeneration of eyes. Note, CBDs have  
21 no THC and are available through doctors in over 40 states  
22 presently.

23 "Israel dominates marijuana research especially  
24 CBDs. Their nursing homes all smoke pot. The United Kingdom  
25 is second only in research to Israel. Canada and Mexico have

1 recently approved medical marijuana usage. Uruguay in South  
2 America is totally legal, as are over a half dozen European  
3 countries. Recently pot is now on the Canadian USA stock  
4 exchange. Two companies are Internet linked under Pot for  
5 Profit. Canada -- can and profit from pot manufacturing --  
6 can profit from pot.com.

7 "The latest poll showed pot for medical approval is  
8 93 percent nationwide and 59 percent for recreational pot  
9 usage. Pot is now legal for 35 grams in Kansas City and  
10 Columbia, Missouri. Thirty-one states have approved medical  
11 pot with 8 recreationally. As of June 2017 West Virginia's  
12 state Congress is the first state to legalize pot without an  
13 election vote. In the spring of 2016 Congress asked the DEA  
14 to reclassify marijuana. The DEA denied it because of no  
15 scientific proof of medical benefits. How can research begin  
16 without their approval? So pot remains a Schedule I with  
17 heroin. Something is terribly wrong here.

18 "I was wrong in disobeying the Court and Congress's  
19 intent and I know you are only following what they have  
20 ordered.

21 "Judge Russell Clark said at my last sentencing in  
22 January of 1990: This seems excessive. A year or so later he  
23 approved a reduction of five years' supervised release to  
24 three years. He was a good man.

25 "This year two more federal judges, Mark Bennett of

1 the northern district of Iowa and Jim Gray Jr. and senior of  
2 southern California have both said: The punishment does not  
3 fit the crime. His medical problem and the mandatory minimums  
4 are warranted and 80 percent of mandatory minimums are unfair  
5 and, yes, I've considered resigning but I'm not ready yet.  
6 Because of the Lynn Bias athlete death that Congress did not  
7 confer with any of his 640 constituents or the BOP, judicial  
8 system and the medical experts that the medical marijuana and  
9 the get tough on crime bill was unworthy of such Draconian  
10 punishments.

11 "In closing, I'm only pleading your cooperation in  
12 honoring my plea agreement and the verbal agreement that  
13 Mr. Garrison said he would consider a positive ruling. I  
14 understand that BOP has the final say-so authority, not you.  
15 Below are the four considerations. Any downward departure  
16 would be retroactive for me, placement at a Springfield  
17 medical housing Unit No. 9 at the federal medical center, camp  
18 custody level and compassionate relief for macular  
19 degeneration of the eyes, knee problems, swollen legs, high  
20 blood pressure, teeth denture problems, hepatitis C, allergies  
21 and overweight problems. No. 4 is the drug education program.  
22 And any kind of sentence reduction that becomes available if  
23 the law is changed.

24 "I do sincerely appreciate your time and  
25 consideration. I've been taught and believe in praying not

1 only for my friends, family and foes but for you and  
2 Mr. Garrison nightly and every morning.

3 "Respectfully submitted, Charles White."

4 THE COURT: Any reason I shouldn't impose sentence  
5 at this time?

6 MR. CARNEY: No, Your Honor. Thank you.

7 MR. COATNEY: No, Your Honor.

8 THE COURT: I'm going to let you stay seated because  
9 it looks like you were struggling a little bit when you had to  
10 stand up. I'm going to impose sentence at this time.

11 Let me -- let me say, first of all, that I  
12 understand there is severe disagreement in the -- among  
13 criminal justice system as to how to treat marijuana. Those  
14 states that have put it up to a vote have generally approved.  
15 I don't know if they all have but many, many have, have  
16 approved medical marijuana, others have approved even a  
17 broader use of marijuana. And yet the public just  
18 overwhelmingly elected a president who appointed an attorney  
19 general who has said he is going to reverse lack of  
20 enforcement of marijuana laws and become aggressive again. So  
21 if there's such overwhelming approval of the change in  
22 marijuana laws, it's not yet reflected in the elections.

23 Congress certainly could change this law at any  
24 time. The Missouri legislature could have changed Missouri  
25 law at any time. In Missouri it hasn't even been placed on

1 the ballot yet. There is an effort to do that, I understand,  
2 and it may happen this year but they haven't been able to get  
3 enough to put it on the ballot and the legislature hasn't  
4 approved it. And while it's been decriminalized in a couple  
5 cities, that doesn't make it legal to use in those cities if  
6 the state wants to pursue charges.

7           It is my responsibility to pursue the law as it's  
8 now written. I once was in the state legislature, by the way,  
9 got to write laws. That was 25 years ago. Now I'm a judge  
10 and I have to enforce the law that others write. Much of the  
11 message that you read to me is properly directed to the  
12 legislators about the need for change or the arguments for  
13 change.

14           For me it is concerning -- and then you've  
15 acknowledged your failure in this regard -- that in this  
16 country we don't get to pick and choose which laws we follow.  
17 We don't get to just follow the ones we agree with. We have  
18 to follow all of them. And I understand that you don't agree  
19 with this law and that many, many don't agree with these laws  
20 about marijuana but as a citizen we still have an obligation  
21 to follow them, and you didn't and you haven't repeatedly.

22           In 1980 in Oklahoma, cultivation of marijuana; in  
23 1989, manufacturing marijuana -- I think that's the one you  
24 mentioned Judge Clark sentenced you on -- possession of a  
25 controlled substance with intent to distribute when you were

1 61 in '02, and here you are again.

2           No matter how fervently you may believe the  
3 marijuana laws are wrong, civilized society can't tolerate  
4 someone repeatedly violating a law just because they don't  
5 agree with it. To the extent -- and I remind you that under  
6 the current law you're facing a minimum of 10 years in prison  
7 and you could be sentenced for the rest of your life, which  
8 for a young person shows there's still severe consequences.  
9 And I realize some states license people to grow marijuana but  
10 Missouri is not one of them. Even in those states there are  
11 severe regulations and taxation that are accompanied with  
12 licensure.

13           Your guideline here, the sentencing experts in our  
14 country, the U.S. Sentencing Commission, say that someone with  
15 your criminal history who did what you did ought to go to  
16 prison for 292 to 365 months. So there's little doubt that  
17 your persistent disregard for the law in the eyes of the  
18 sentencing experts call for and justify a very severe  
19 sentence.

20           It is my intent to give you the minimum sentence  
21 recommended by the government. Frankly, it would have been my  
22 preference if we could have found a charge to give you that  
23 wouldn't have a minimum sentence with it, but they have their  
24 job and I have my job. And you are guilty of this crime and  
25 therefore you have to be sentenced the way the Congress says

1 you should be sentenced for this crime.

2 I postponed your last sentencing hearing because I  
3 did a lot of independent research, frankly, to try to find a  
4 way around the minimum sentence, including calling the U.S.  
5 Sentencing Commission and asking for input if there was a way  
6 to get around it. And they mentioned the safety valve portion  
7 of the statute, which you don't qualify for because of your  
8 criminal history, as your lawyer said. What we call a 5K  
9 agreement is when you provide information to the government  
10 that's helpful for convicting other people and you don't have  
11 that kind of agreement nor that kind of situation. And that  
12 help and medical condition alone is not sufficient to go below  
13 the minimum sentence.

14 But they did point out to me Guideline Section 1B1.  
15 13. I'm not sure that you meet the requirements of that or  
16 will, but there are comments there about the medical condition  
17 of a defendant. And so I, as part of my judgment and  
18 commitment, am going to encourage the Bureau of Prisons to  
19 consider whether your health and age are such that you should  
20 be considered for compassionate release. Understand that's a  
21 Bureau of Prisons' ultimate decision but I will reflect that I  
22 would be inclined to approve any request for compassionate  
23 release under certain terms if presented to me, but that  
24 evaluation is by law one of the Bureau of Prisons and not for  
25 me.

1           So it is the judgment of this Court that defendant  
2 Charles Frederick White is committed to the custody of the  
3 Bureau of Prisons for 120 months. I'm going below guidelines  
4 because of your health and medical condition based on the  
5 recommendation of the government also but also my own  
6 decision. You will be placed on supervised release for five  
7 years after completing the prison term. I don't think you  
8 have the ability to pay a fine; I'm not going to impose a  
9 fine. You will have to pay a \$100 special assessment.

10           While you're on supervised release the defendant  
11 will comply with the mandatory and standard conditions that  
12 have been adopted by the Court. In addition, you will comply  
13 with the special conditions listed in Part D of the  
14 presentence investigation report.

15           Again, I encourage the Bureau of Prisons to review  
16 your case carefully and to determine whether or not a  
17 compassionate release of some sort isn't an appropriate  
18 consideration given your situation.

19           I will recommend that you be placed in the United  
20 States Medical Center here in federal -- in Springfield. I  
21 know you have relatives, I think they were maybe Colorado  
22 or --

23           THE DEFENDANT: Yes, sir.

24           THE COURT: I don't know where in Colorado is an  
25 institution. Is that a second request? If they can't place



1 you or won't place you in the medical center here, would you  
2 prefer to be in Colorado?

3 THE DEFENDANT: Yes.

4 THE COURT: Then as a secondary if they can't place  
5 you in Springfield, then I'll ask them to place you in --  
6 somewhere in Colorado at least perhaps where your family or  
7 other acquaintances can contact you.

8 The government has counts to dismiss.

9 By the way, I should say I sentenced you on the  
10 superseding indictment, Count 1 of the superseding indictment.

11 MR. CARNEY: Your Honor, the government would  
12 dismiss at this time all other preceding indictments or  
13 superseding indictments as well as the remaining counts to  
14 which the defendant did not plea. I also believe, Your Honor,  
15 we are withdrawing the forfeiture allegation as well.

16 THE COURT: Forfeiture allegation will be shown as  
17 withdrawn. I find that all remaining counts against this  
18 defendant are dismissed, and in particular that's Count 1 of  
19 the original indictment and Count 2 of the superseding  
20 indictment plus any other counts that are pending against him.

21 Anything further on behalf of the government that I  
22 need to address?

23 MR. CARNEY: No. Thank you, Your Honor.

24 THE COURT: Anything further on behalf the  
25 defendant?

1           MR. COATNEY: No, Your Honor. Thank you.

2           THE COURT: All right. This is not a sentence I'll  
3 tell you I feel particularly good about but you know when you  
4 take an oath to take an office, you swear to follow the law,  
5 and this is the law and so that's what your sentence is going  
6 to be.

7           Good luck to you, sir.

8           We'll be in recess.

9           (Court stands in recess at 10:17 a.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Jeannine M. Rankin, Federal Official Court Reporter,  
in and for the United States District Court for the Western  
District of Missouri, Southern Division, do hereby certify  
that the foregoing is a true and correct transcript of the  
stenographically reported proceedings.

/s/ Jeannine M. Rankin

Date: 10/12/17 Jeannine M. Rankin, CCR, CSR, RPR